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Executive Registry

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MEMORANDUM FOR: Deputy Director of Central Intelligence

FROM : Executive Director

SUBJECT : Agency Policy Governing Use of Agency Annuitants and Nonannuitants as Independent Contractors

REFERENCE : Inspector General Survey Report on Agency's Use of Reemployed Annuitants, dated June 1984

1. Action Requested: That you approve the following policy statement, definition, and general guidelines pertaining to the use of Agency annuitants and nonannuitants as independent contractors.

2. Background: In response to the Inspector General's study of "The Use of Reemployed Annuitants," the Office of Personnel, working with OGC, and I have prepared the following revised policy statement, definition and criteria pertaining to the use of annuitants and nonannuitants as independent contractors. Subject to your approval of these changes, we will initiate action to modify Agency regulation applies to the hiring of individuals as either contract employees or independent contractors.

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3. Definition of Independent Contractor:

The following definition of an independent contractor has been provided by the Office of General Counsel:

"Pursuant to the authority in Section 8(a) of the CIA Act of 1949, as amended, the Agency has authority to engage the services of persons who will not be Government employees. As a rule, an individual will be hired as an employee when the individual's duties will include authority to appoint, *supervise, promote, demote, or transfer other federal employees, or to certify, approve the expenditure of, or obligate U.S. Government funds. When the Agency needs persons who have special expertise, acquired over a period of time, to fulfill particular tasks, or persons who are otherwise required to assist the Agency in fulfilling its missions, such persons may contractually be engaged in a nonemployee status. The specific duties, responsibilities, and authorities of such individuals, as well as their remuneration and other benefits, will be specified in the contract; the contract shall clearly state that the individual is not a U.S. Government employee."

*Not in OGC's definition; added by EXDIR.

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4. Policy Statement: With the exception of those individuals who are selected for the Inactive Cadre of the Agency Civilian Reserve Program, the use of Central Intelligence Agency Retirement and Disability System (CIARDS) or Civil Service annuitants is discouraged. As a general rule, the Agency does not wish to hire annuitants and will do so only where important intelligence activities will be adversely affected unless we have the services of such individuals, or when necessary to meet Agency requirements which cannot be satisfied in other ways. Agency regulations will explain that it is our policy to discourage the use of annuitants, and will set forth the guidelines under which they will be hired when that is considered desirable. The specific approval of the DCI, the DDCI, or the Executive Director is required to rehire an annuitant. Requests will be forwarded through the Head of Career Service to the Director of Personnel for his review and recommendation to the DCI, DDCI, or Executive Director. Requests to hire annuitants as independent contractors will include a statement as to why the requirement cannot be met through the use of a staff employee, and will specify the action being taken to rectify the deficiency.

5. Criteria and Guidelines Applicable to the Hiring and Use of Agency Annuitants as Independent Contractors when it is determined that Agency requests cannot be satisfied through other than the use of a rehired annuitant:

A. Annuitants who are utilized as independent contractors will not be placed in positions of line authority, nor will the use of annuitants in any way interfere with the orderly career development of staff employees.

B. An Agency annuitant generally will not be engaged as an independent contractor within one year of retirement.

C. An Agency annuitant independent contractor will not be engaged to perform the duties of the position from which he retired.

6. Exclusions from the Exception Criteria:

Certain annuitants have for some time been excluded from the above-stated criteria and, subject to Director of Personnel approval, may be routinely considered and hired to meet Agency personnel needs. These include those persons utilized to perform duties or provide services in the following functional areas:

A. Annuitants hired for clerical or technical positions through GS-08 or prevailing rate positions (e.g., Wage Board, Graphic Arts, and Government Printing).

B. Annuitants hired to review material relating to FOIA and Privacy Act requirements.

C. Independent contractors who serve as construction monitors, or technical monitors for the Office of Security.

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D. Independent contractors of FBIS/Joint Publications Research Service who are compensated on a fee basis for translation work.

E. Independent contractors who review OSS files.

F. Independent contractors who are involved in the process of debriefing emigres to the United States.

G. Independent contractors who perform "one-time" services (e.g., addressing Agency training courses).

H. Independent contractors who serve as role players in operations training courses on an intermittent basis.

I. Independent contractors who provide tutorial tradecraft training primarily to foreign liaison, foreign intelligence services, the Intelligence Community and nonofficial cover personnel on an intermittent basis.

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J. Independent contractors engaged

7. Criteria and Guidelines Applicable to the Hiring and Use of Nonannuitants as Independent Contractors:

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Agency components must also exercise great discretion in the hiring and utilization of nonannuitants as independent contractors. The Director of Personnel will review each request to engage the services of a nonannuitant independent contractor and will ensure that the proposed duties clearly justify the use of an independent contractor rather than an employee. As stipulated above for annuitant independent contractors, nonannuitant independent contractors will not be placed in positions of line authority, nor will the use of independent contractors in any way interfere with the orderly career development of staff employees. Additionally, independent contractors will in general be employed only where the task or service to be performed is of a "piecework," one-time or intermittent, character or will be accomplished in a relatively short period--preferably days or weeks, rather than months or years. Requests which do not meet these criteria will be considered only when critical Agency intelligence activities would otherwise be adversely affected.

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James H. Taylor

APPROVED:

Deputy Director for Central Intelligence

Date

27 Dec 84

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